

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 18-292
)	
ROBERT BOWERS)	

**REPLY TO GOVERNMENT’S RESPONSE (ECF 1075) TO
DEFENSE MOTION UNDER THE FIFTH, SIXTH, AND EIGHTH AMENDMENTS
FOR MATERIALS RELATED TO JURY SELECTION AND POTENTIAL CLAIMS
UNDER BATSON V. KENTUCKY (ECF 1060)**

It is within this Court’s discretion to order the government and Clerk of Court to produce the information the defense requests. And it is well within the government’s discretion to produce the information, or a subset of the information, without any court order. It refuses to do so and exaggerates the effort it would take to provide the information. The defense seeks the historical information that state and federal courts, including the U.S. Supreme Court, recognize as part and parcel of a well-formed challenge to a juror strike under *Batson v. Kentucky*, 476 U.S. 79 (1986).

The defense understanding is that its Motion under the Fifth, Sixth, and Eighth Amendments for materials related to jury selection and potential claims under *Batson* does not fall under the pretrial motions deadline set by the Court. The pretrial motions deadline and the “good cause” standard for untimely pretrial motions concern motions filed under Rule 12(b)(3) of the Federal Rules of Criminal Procedure, and this Motion is not covered by Rule 12(b)(3). *See* Fed. R. Crim. P. 12(b)(3) and 12(c)(3). The defense moves the Court to

order the government and Clerk of Court to produce the information the defense requests, information that would help ensure due process of law.

Respectfully submitted,

/s/ Judy Clarke

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